

## REMARKS

Claims 1-11 are now currently pending in the application. The Office Action rejected claims claim 3, 4 and 8-10 under 35 U.S.C. § 112 second paragraph as being indefinite. Claims 1 and 4-9 were rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,680,590 (Blomfield). Claim 11 was rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,662,508 (Smith). Further, the Office Action rejected claims 2 and 10 under 35 U.S.C. 103(a) as being obvious over Blomfield in view of Smith. Also, the Office Action rejected claims 2, 3 and 10 under 35 U.S.C. 103(a) as unpatentable over Blomfield in view of US Patent No. 3,355,054 (Wilson). Although the Applicant respectfully traverses all of the rejections, Applicant has canceled claims 1-11 and added new claims 12-19 to more fully define and distinguish the invention. Now new matter has been added. Pursuant to 37 C.F.R. 1.111, Applicant respectfully requests reconsideration of the application.

### **Rejection of claims 3, 4 and 8-10 under 35 U.S.C. § 112 second paragraph**

The Office Action rejected claims 3, 4 and 8-10 as being indefinite. Applicant has canceled claims 3, 4 and 8-10, and added new claims thereby making this ground of rejection moot. Applicant respectfully submits the new claims are definite and requests removal of this ground of rejection.

### **Rejection of claims 1 and 4-9 under 35 U.S.C. 102(b)**

The Office Action Claims 1 and 4-9 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,680,590 (Blomfield). With respect to claims 1 and 4-9, the claims have been canceled. As such, this ground of rejection is moot.

With regards to new independent claims 12 and 16, at a minimum, Blomfield does not teach or suggest a blank or a container with “a second cut-out portion in said bottom wall panel spaced-apart from said first cut-out portion and positioned apart from said second fold line, said second cut-out portion being sized differently from said first cut-out portion.” Quite to the contrary, Blomfield only discloses cut-out portions that are along the second fold line and that

are of uniform size relative to one another. With respect to independent claims 13-15 and 17-19, at a minimum, they are dependent from the allowable independent claims and are therefore allowable for the same reasons that make the independent claims allowable. As such, Blomfield does not anticipate any of the new claims. Applicant respectfully requests removal of this ground of rejection.

**Rejection of claim 11 under 35 U.S.C. 102(b)**

Claim 11 was rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent No. 5,662,508 (Smith). With respect to claim 11 the claim has been canceled. As such, this ground of rejection is moot.

With regards to new independent claims 12 and 16, Smith does not teach or suggest a blank or a container with a "second cut-out portion being sized differently from said first cut-out portion." In the present invention, the second cut-out are sized to receive two stacking tabs portions (86A&B, and 88 A&B: FIGS 2 & 5). Conversely, at a minimum, the cutouts of Smith are all sized to receive only one size of tab. As such, Smith does not anticipate the new claims. Consequently, Applicant respectfully requests removal of this ground of rejection.

**Rejection of claims 2 and 10 under 35 U.S.C. 103(a)**

The Office Action rejected claims 2 and 10 under 35 U.S.C. 103(a) as being obvious over Blomfield in view of Smith. With respect to claims 2 and 10, the claims have been canceled. As such, this ground of rejection is moot.

The deficiencies of Blomfield and Smith are discussed independently above. As an initial matter, there is no motivation or suggestion in Blomfield to modify its teaching by that of Smith. As such, the combination of the two is not proper. Regardless, however, even if Blomfield was modified by Smith, the combination would not result in the claimed invention. Neither reference contains any teaching regarding a "second cut-out portion being sized differently from said first cut-out portion." As the combination of Blomfield and Smith is not only improper but would nonetheless fail to result in the claimed invention the new claims are

allowable over the cited art. Consequently, Applicant respectfully requests removal of this ground of rejection.

**Rejection of claims 2, 3 and 10 under 35 U.S.C. 103(a)**

The Office Action rejected Claims 2, 3 and 10 under 35 U.S.C. 103(a) as unpatentable over Blomfield in view of US Patent No. 3,355,054 (Wilson). With respect to claims 2, 3 and 10, the claims have been canceled. As such, this ground of rejection is moot.

With respect to claims 12 and 16, the failings of Blomfield are discussed above. Wilson is unable to correct the deficiencies of Blomfield. Neither Blomfield nor Wilson alone or in combination teach or suggest combining their respective disclosures. As such, any combination of the references is not proper. Additionally, even if the references were combined, the claimed invention would not be taught or suggested. Neither reference teach or suggest "a second cut-out portion in said bottom wall panel spaced-apart from said first cut-out portion and positioned apart from said second fold line, said second cut-out portion being sized differently from said first cut-out portion." Applicant thereby respectfully requests removal of this ground of rejection.

**CONCLUSION**

In summary, although Applicant respectfully traverses the Office Action's rejections of claims 1-11, these claims have been canceled and new, distinct claims 12-19 added. Based upon the above remarks, Applicant respectfully requests reconsideration of the application and its early allowance.

Respectfully submitted,



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